

Application No. 10/667,851
Amendment Dated 1/27/2009
Reply to Office Action dated 10/27/2008

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Remarks/Arguments

Claims 1-27 are pending in the present application. Claims 1, 11, and 21 are currently amended.

Section 101 Rejection

Claims 1-20 and 27 were rejected under 35 U.S.C. 101 because the claimed invention is allegedly directed to non-statutory subject matter. The Examiner explains that "it is possible to read the claims such that the data storage device is a paper notebook and the data processing system is an individual using the notebook to perform the method steps." (Office Action at page 3.) This rejection is respectfully traversed.

"Data processing" means **"the converting of raw data to machine-readable form and its subsequent processing** (as storing, updating, combining, rearranging, or printing out) by a computer." (*Merriam-Webster's Collegiate Dictionary*, p. 316 (Eleventh Ed.), emphasis added.) In addition, a "data processing system" is merely an abbreviated form of an "electronic data processing system." For example, "electronic data processing" refers to "the main action of all digital computers. It consists of the fundamental actions of data entry, storage, rearrangement and display." (Ian Sinclair, *Collins Dictionary of Electronics*, p. 143 (2007).)

Accordingly, claim 1, 11 and 21 have been amended to recite "electronic data processing" and to recite financing "via electronic communications" consistent with the above dictionary definitions and paragraph 7 of the application, and FIG. 1A, for example. The program management module 506, the security module 524, and the credit module 528 of FIG. 1A provide further contextual support for properly interpreting a data processing system as an "electronic data processing system," because "module," may refer to software or a "packaged functional assembly of electronic components for use with other such assemblies." (*Merriam-Webster's Collegiate Dictionary*, p. 798 (Eleventh Ed.).)

Applicants note that the Federal Circuit recently issued the decision in the *In re Bilski* case, which attempts to clarify what qualifies for statutory subject matter under 35 U.S.C. 101. "A claimed process is surely patent-eligible subject matter under § 101 if: (1) it is tied to a particular machine or apparatus." (*In re Bilski*,

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Docket No. 2007-1130, Fed. Cir. 2008 at p. 10 (citing *Gottschalk v. Benson*, 409 U.S. 63, 70 (1972).)

Claims 1 and 11 previously called for a "data processing system" as the particular machine or apparatus, and now call for an "electronic data processing system," which adequately ties the claims to a statutory machine or apparatus. Claims 2-10 and 27 depend on claim 1 and are patentable for at least similar reasons to claim 1. Claims 12-20 depend on claim 11 and are patentable for at least similar reasons to claim 11. Applicants respectfully request the withdrawal of the section 101 rejection of the claims.

Section 103 Rejection

Claims 1-5, 7-9, 11-15, 17-19, 21-23 and 25-27 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Pub. No. 2001/0047307 A1 ("Bennett") in view of U.S. Pub. No. 2003/0163401 A1 ("Dines") and in further view of the publication of D. Aaker, V. Kumar, and G. Day, Marketing Research (Seventh Edition) ("Aaker"). This rejection is respectfully traversed for the following reasons.

Bennett Reference

Bennett discloses an on-line purchasing system that supports buyer affordability screening. (Abstract.) Bennett selects buyers to whom incentives are distributed (e.g., via e-mail). (Bennett at paragraphs 146 and 151.) Bennett also selects loan offerings for a given good or service selected by a buyer. (Bennett at paragraphs 38 and 152.) The "affordability-based web server may identify an additional and superior loan offering or good pricing that may convince the buyer to complete the transaction." (Bennett at paragraph 146.) Bennett discloses that the "lender may identify buyers having pending underlying transactions involving, or who have show interest in, the goods, services or financing of the lender or seller." (Bennett at paragraph 148.) Bennett references the "personal credit history" of the buyer (Bennett at paragraph 105) and "loan history" of loans within the lender's portfolio. (Bennett at paragraph 96.)

Dines Reference

Dines discloses a method for forming a loan agreement where the lender contractually shares in the proceeds from a future sale of commodity. (Dines, Abstract and claim 1.) In Dines the lender shares in the grower's risk based on the price level of the commodity, for example. (Dines at paragraph 63.) The lender may

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provide a lower interest rate to the grower in exchange for the ability to share benefits when the market price of a commodity grown by the grower is high. (Dines, paragraphs 62 and 63.)

Even if Bennett and Dines could be combined, the alleged combination of Bennett and Dines would not meet claim 1 or claim 11. The alleged combination of Bennett and Dines does not disclose selecting of incentive programs as recited in the claims as noted in the Office Action. (Office Action at page 6.) In particular, the alleged combination of Bennett and Dines lacks: "selecting the available incentive programs from the library of incentive programs through the discretion of a particular retailer servicing a particular producer **based on retailer preferences comprising a geographic region that the retailer services, historic sales, and a supplier relationship with one or more suppliers of the incentive programs,**" as set forth in claim 1 and claim 11 (emphasis added).

Aaker Reference

The Office Action cites Aaker in an attempt to make up for the above noted deficiencies in the alleged combination of Bennett and Dines. Aaker discloses that "the system combines a database full of information about customers' buying habits with analytical software that, among other things, gives buyers answers to key marketing questions: which products and colors sold best, which vendors were most profitable, which time of the year was best for selling particular items, like sneakers." (Aaker at page 691.)

However, "which vendors were most profitable" is not same as "a supplier relationship with one or more suppliers of the incentive programs **to limit the incentive programs to certain providers with superior quality or customer satisfaction,**" as now claimed in claims 1, 11 and 21. For example, a supplier relationship may consider things like the quality or customer satisfaction of a supplier, as opposed to the profitability of the supplier. "The retailer may limit the incentive programs to certain providers with superior quality or customer satisfactions or for any other reason that promotes product sales under the incentive programs or otherwise" as noted in paragraph 72 of the specification.

Aaker also discloses that "a database should attempt to create .. recency/frequency/monetary transaction history by date, dollar amounts (cumulative) of purchase, and product (lines) purchased." (Aaker at page 693.) However, Aaker

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does not address how the transaction history is used in the same manner as claimed or in combination with the recited retailer preferences. Although Aaker references "a database should attempt to create .. relevant **organization data for industrial buyers** .. perhaps information about the area of the organization's economic or social location..." (Aaker at page 693), as set forth in the claims, a "geographic region that the retailer services" is distinct from or independent of a buyer's "economic or social location" in Aaker.

Accordingly, even if it were possible to combine the three references, the alleged combination of Bennett, Dines and Aaker does not meet claims 1, 11 or 21. To summarize with respect to claims 1 and 11, the alleged combinations lacks "selecting the available incentive programs from the library of incentive programs through the discretion of a particular retailer servicing a particular producer based on retailer preferences comprising a **geographic region that the retailer services**, historic sales, and a **supplier relationship with one or more suppliers of the incentive programs to limit the incentive programs to certain providers with superior quality or customer satisfaction**." (emphasis added.) Further, the alleged combination of Bennett, Dines and Aaker relies upon three references, which is arguably a weaker rejection than an obviousness rejection based on one or two references. The rejection relies upon selectively combining parts of each of the three references in an attempt to achieve the claimed invention with impermissible hindsight. For the above reasons, Applicants respectfully request withdrawal of the section 103 rejections of claims 1 and 11.

For the foregoing reasons, the alleged combination of Bennett and Dines does not meet claim 1 or claim 11. Claims 2-10 and 27 depend on claim 1 and are patentable for at least similar reasons to claim 1. Claims 12-20 depend on claim 11 and are patentable for at least similar reasons to claim 11. Applicants respectfully request withdrawal of the section 103 rejection of the above claims.

Claim 21 is different from claim 1 because it is a system claim, among other things. Consistent with the above discussion of claim 1, the language of claim 21 is somewhat similar to claim 1 in that it recites the following language:

"the available incentive programs selected from a comprehensive list of incentive programs through the discretion of a particular retailer servicing the producer based on retailer preferences comprising a geographic region that the

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retailer services, historic sales, or a supplier relationship with one or more suppliers of the incentive programs to limit the incentive programs to certain providers with superior quality or customer satisfaction."

Accordingly, the same arguments that applied to claim 1 and claim 10 above, apply to claim 21 as if fully set forth herein. The alleged combination of Bennett, Dines, and Aaker lacks the selection of incentives based on retailer preferences such as the "geographic region that the retailer services, historic sales, and a supplier relationship with one or more suppliers of the incentive programs to limit the incentive programs to certain providers with superior quality or customer satisfaction."

With respect to claim 21, neither Bennett, nor Dines, nor Aaker, alone, or in combination, disclose transferring the crop planning data and incentive program data on the preferential program to a financial screening process "to reduce or eliminate duplicative reentry of the background data applicable to the incentive programs and the financial screening process associated with financing of the products" as now recited in claims 1, 11 and 21. In Bennett, personal information is merely used to obtain credit report information, for example. (Bennett at paragraph 16 and Bennett at claims 1, 10 and 21.) In the Office Action, the Examiner noted that "Bennett does not disclose receiving crop planning or background data of a particular producer and wherein the crop planning data is sent along with the incentive program to a financial screening process." (Office Action at p. 3.) Dines neither discloses incentive programs for agricultural input products, nor sharing background data for both the incentive program and financial screening. Aaker does not make up for the above noted deficiencies of Bennett and Dines.


For the foregoing reasons, the alleged combination of Bennett, Dines and Aaker does not meet claim 21. Claims 22-26 depend on claim 21 and are patentable for at least similar reasons to claim 21.

Any and all claim limitations that were not expressly discussed above generally were not submitted to overcome any prior art, but to place the claims in better form or to improve their clarity.

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In conclusion, it is believed that this application is in condition for allowance, and such allowance is respectfully requested. Any fees or charges due as a result of filing of the present paper may be charged against Deposit Account 04-0525.

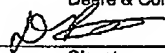
Respectfully submitted



Attorney for Applicant(s)

Darin E. Bartholomew
Reg. No. 36,444
Patent Department
Deere & Company
One John Deere Place
Moline, IL 61265
Telephone No. (309) 765-5615

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